

Message Text

LIMITED OFFICIAL USE

PAGE 01 GENEVA 09943 01 OF 02 301523Z
ACTION STR-07

INFO OCT-01 STRE-00 ISO-00 AF-10 ARA-10 EA-10 EUR-12
NEA-11 OIC-02 IO-13 CIAE-00 DODE-00 NSAE-00
NSCE-00 SSO-00 ICAE-00 INRE-00 AGR-01 CEA-01
COME-00 EB-08 FRB-03 H-01 INR-10 INT-05 L-03
LAB-04 PA-01 CTME-00 AID-05 SS-15 ITC-01 TRSE-00
SP-02 SOE-02 OMB-01 DOE-15 JUSE-00 /154 W
-----110541 301543Z /46

O 301503Z JUN 78
FM USMISSION GENEVA
TO SECSTATE WASHDC IMMEDIATE 1525
INFO AMEMBASSY BRUSSELS
AMEMBASSY BRASILIA
AMEMBASSY TOKYO

LIMITED OFFICIAL USE SECTION 01 OF 02 GENEVA 09943

USMTN USEEC

ACTION STR FOR AMB. WOLFF

STR PASS CODEL

E.O. 11652
TAGS: ETRD, MTN
SUBJECT: DISPUTE SETTLEMENT

REF: (A) GENEVA 8818; (B) GENEVA 8253

1. SUMMARY. "UNDERSTANDING" ON DISPUTE SETTLEMENT HAS
REACHED CRUNCH POINT. GATT SECRETARIAT HAS CIRCULATED
CONSENSUS TEXT WHICH ACCEPTED IN DRAFT, AS WORKING BASIS,
BY KEY DCS AND LDCE EXCEPT EC. DESPITE MTN DEL SUPPORT
FOR EARLIER EC EFFORT, LATTER DEL ENRAGED THAT SUCH
SUPPORT NOW GIVEN TO NEW VERSION WHICH IS CLEARLY BETTER,
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 GENEVA 09943 01 OF 02 301523Z

FROM U.S. VIEWPOINT, IN TERMS OF SUBSTANCE. EC DEL
THREATENS TO HAVE ISSUE RAISED AT BRUSSELS-WASHINGTON
LEVEL. END SUMMARY.

2. EC-DRAFTED "UNDERSTANDING CONCERNING SETTLEMENT/
MANAGEMENT OF DISPUTES" (MTN/INF/27) GIVEN LUKEWARM
RECEPTION BY 7-PLUS-7 GROUP JUNE 22. FYI: TEXT ROUGHLY

IDENTICAL TO DRAFT CIRCULATED INFORMALLY BY EC IN LATE APRIL, EXCEPT FOR SOME OF THE CHANGES AND ADDITIONS NECESSARY FOR IT TO BE ACCEPTABLE TO MTN DEL AS WORKING BASIS (REFTELS). COPY OF INF/27 HAND-CARRIED TO WASHINGTON JUNE 23 BY DORAL COOPER, STR. END FYI.

3. DESPITE FACT THAT ITS AUTHORSHIP OF INF/27 OBVIOUS TO MOST 7-PLUS-7 PARTICIPANTS, EC (ADINOLFI) AT NO POINT ACKNOWLEDGED THIS AND DECLINED TO SPEAK FIRST, OR EVEN EARLY IN SESSION, ON IT. BRAZIL (AMB. MACIEL) AND CANADA (CLARK) INSTEAD OPENED WITH STRONG CRITICISM COVERING, INTER ALIA, SUBSTANTIVE POINTS ON WHICH EC HAD BEEN UNWILLING TO FULLY ACCOMMODATE U.S. CONCERNS. AS PREVIOUSLY AGREED WHEN EC MADE SOME KEY CHANGES, U.S. (MARK) SUPPORTED EC DRAFT AS WORKING BASIS. HOWEVER, SINCE SILENCE ON KEY POINTS FOLLOWING BRAZILIAN/CANADIAN CRITIQUE WOULD HAVE SIGNALLED U.S. CONCESSION TO EC THEREON, U.S. OBLIGED TO ADD THAT "GREATER CLARITY" NEEDED ON (A) DISPUTANTS' CLEAR RECOURSE TO REVIEW OF A CASE BY INDEPENDENT PANEL; (B) ASSURANCE OF PROMPTNESS, E.G., BY INCLUDING TARGET TIME LIMITS; AND (C) NATURE OF CONCILIATION FUNCTION IN PANEL PROCESS. U.S. ALSO STRESSED IMPORTANCE OF RELATED ELEMENTS WHICH NOT TREATED IN INF/27 (NOTIFICATION, CONSULTATIONS, SURVEILLANCE AND FOLLOW-UP) BUT WHICH WERE COVERED IN MTN DEL DISCUSSION DRAFT CIRCULATED INFORMALLY TO MOST DELS EARLIER IN SPRING.

LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 GENEVA 09943 01 OF 02 301523Z

4. FOLLOWING FURTHER CRITICISM BY SWITZERLAND (GERBER) AND SEVERAL LDCS, AND ONLY MODEST SUPPORT BY JAPAN (NOGAMI) AND AUSTRIA (SEGALLA), EC (ADINOLFI) FINALLY SPOKE ON INF/27 BUT CONTRARY TO PRIOR AGREEMENT WITH MTN DEL DID NOT RPT NOT "SUPPORT AS WORKING BASIS." INSTEAD, EC REFERRED TO TEXT AS "REFLECTING OUR THINKING" WHILE ADDING THAT "SOME POINTS NOT ENTIRELY SATISFACTORY". SUBSEQUENTLY BRAZIL AND CANADA ASKED SECRETARIAT TO PRODUCE NEW PAPER COMBINING OTHER DELS' VIEWS WITH INF/27. EC DID NOT OPPOSE, NOR DID U.S.

5. DG LONG CONVENED INFORMAL GROUP OF 8 DC AND LDC DELS JUNE 28 TO EXCHANGE PRELIMINARY COMMENTS ON SECRETARIAT'S "COMPROMISE TEXT." EC AGAIN DECLINED TO SPEAK EARLY. BRAZIL, CANADA AND SWITZERLAND ENTHUSIASTICALLY WELCOMED SECRETARIAT TEXT AS "BREAKTHROUGH" ON SUBJECT AND ENDORSED IT AS AGREED WORKING TEXT. MOST SIGNIFICANTLY JAPAN (NOGAMI) OVERCAME LONG-STANDING RESISTANCE AND GAVE CAUTIOUS SUPPORT. U.S. REMINDED GROUP OF EARLIER SUPPORT FOR INF/27, NOTED THAT SHORTCOMINGS CITED BY U.S. IN 7-PLUS-7 APPEARED TO HAVE BEEN LARGELY RESOLVED BY

SECRETARIAT, AND JOINED IN SUPPORT FOR TEXT AS REFINED WORKING BASIS. EC NEITHER SUPPORTED NOR OPPOSED, BUT CITED SEVERAL "PROBLEM AREAS" (IN PARTICULAR, POINTS OF GREATEST CONCERN TO U.S.).

6. SECRETARIAT YESTERDAY CIRCULATED ITS "COMPROMISE TEXT" AS MTN/INF/29 (COPY TO BE HAND-CARRIED TO STR VIA NEXT WASHINGTON TRAVELLER.) TEXT WILL BE DISCUSSED IN 7-PLUS-7 SESSION COVERING ALL FRAMEWORK TOPICS TODAY. EC'S ONLY REMAINING "ALLY" ON SUBJECT (NORDICS) INFORMED US THEY, TOO, ARE REASONABLY SATISFIED WITH SECRETARIAT VERSION.

7. LUYTEN OF EC TELEPHONED AMBASSADOR MCDONALD JUNE 29
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 04 GENEVA 09943 01 OF 02 301523Z

LIMITED OFFICIAL USE

NNN

LIMITED OFFICIAL USE

PAGE 01 GENEVA 09943 02 OF 02 301527Z
ACTION STR-07

INFO OCT-01 STRE-00 ISO-00 AF-10 ARA-10 EA-10 EUR-12
NEA-11 OIC-02 IO-13 CIAE-00 DODE-00 NSAE-00
NSCE-00 SSO-00 ICAE-00 INRE-00 AGR-01 CEA-01
COME-00 EB-08 FRB-03 H-01 INR-10 INT-05 L-03
LAB-04 PA-01 CTME-00 AID-05 SS-15 ITC-01 TRSE-00
SP-02 SOE-02 OMB-01 DOE-15 JUSE-00 /154 W
-----110562 301546Z /46

O 301503Z JUN 78
FM USMISSION GENEVA
TO SECSTATE WASHDC IMMEDIATE 1526
INFO AMEMBASSY BRUSSELS
AMEMBASSY BRASILIA
AMEMBASSY TOKYO

LIMITED OFFICIAL USE SECTION 02 OF 02 GENEVA 09943

USMTN USEEC
ACTION STR FOR AMB. WOLFF
STR PASS CODEL

TO COMPLAIN OF MTN DEL "TREACHERY" IN SUPPORTING SECRETARIAT VERSION OVER EC'S EARLIER VERSION. LUYTEN WAS REMINDED THAT MTN DEL HAD INDEED SUPPORTED EC AT EARLIER STAGE AND SO HAD KEPT TO OUR AGREEMENT. WHEN OTHER DELS HAD CALLED FOR REVISION NEITHER U.S. NOR EC COULD OBJECT; RESULT REFLECTED PREDOMINANTLY EC DRAFTING, WITH CLEAR IMPROVEMENTS ON POINTS OF GREATEST CONCERN TO U.S. AND WITH GREATER APPARENT SUPPORT FROM OTHER DC AND LDC DELS. EC INSISTENCE THAT U.S. STICK TO LANGUAGE PUT FORWARD EARLIER WOULD MEAN, IN EFFECT, THAT U.S. SHOULD CARRY EC'S BATTLE AGAINST ENTIRE GROUP ON THE VERY POINTS THAT HAVE DIVIDED US. LUYTEN WAS NOT MOLLIFIED, AND THREATENED TO HAVE ISSUE RAISED BETWEEN HAFERKAMP AND AMB. STRAUSS.

LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 GENEVA 09943 02 OF 02 301527Z

8. COMMENT. IN PAST FOUR MONTHS, MAJOR DCS AND LDCS HAVE GRADUALLY CONVERGED ON ESSENTIAL ELEMENTS OF DISPUTE-SETTLEMENT REFORM PACKAGE. MILESTONE IN THAT PROCESS WAS EC'S CIRCULATION OF INF/27, WHICH IN EFFECT ESTABLISHED "LEAST COMMON DENOMINATOR" IN NEGOTIATIONS TO DATE. MTN DEL SUPPORTED EC TEXT AS WORKING BASIS, BUT NOT RPT NOT IN TERMS OF FINALLY-AGREED LANGUAGE. LATEST OUTBURST FROM EC CLEARLY IS A FUNCTION OF ITS ISOLATION VIS-A-VIS MAJORITY OF DC AND LDC DELS ON SUCH KEY ISSUES AS THE RIGHT TO INDEPENDENT REVIEW OF DISPUTES. AT THIS CRUCIAL POINT, WITH FAIRLY BROAD-BASED CONSENSUS AT LONG LAST BEGINNING TO MATERIALIZE ON DISPUTE SETTLEMENT, MTN DEL BELIEVES THAT ANY HIGHER-LEVEL EXCHANGES MAY BE VERY USEFUL--SINCE HAFERKAMP AND GUNDELACH HAVE ON OCCASION APPEARED MORE FORWARD-THINKING ON THESE ISSUES THAN EC REPS IN GENEVA, WHO REMAIN OBSESSED WITH THEIR DIFFICULTIES IN RECENT DISPUTE CASES HERE (E.G., PANEL ON LEAD AND ZINC), AND APPARENTLY WOULD LIKE TO "FIX" SUCH PROBLEMS IN ADVANCE AND FOR ALL TIME. END COMMENT.

8. DRAFTED BY MARK MCDONALD

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: DISPUTE SETTLEMENT, DISPUTES, AGREEMENT DRAFT, TRADE AGREEMENTS
Control Number: n/a
Copy: SINGLE
Draft Date: 30 jun 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978GENEVA09943
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D780270-1197
Format: TEL
From: GENEVA USMTN
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t1978064/aaaaadfq.tel
Line Count: 212
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 25a94685-c288-dd11-92da-001cc4696bcc
Office: ACTION STR
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 78 GENEVA 8818, 78 GENEVA 8253
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 05 may 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: N/A
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 2282730
Secure: OPEN
Status: NATIVE
Subject: DISPUTE SETTLEMENT
TAGS: ETRD, MTN
To: STATE USEEC
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/25a94685-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014